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In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. 584 8

CRANE-JOHNSON COMPANY,
a Corporation of North Dakota,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE.

H. H. HOPPE,
Second National Building,
Warren, Ohio,
Attorney for Amici Curiae.

HOPPE, LEA, DAY & FORD,
Second National Building,
Warren, Ohio,
Of Counsel.

THE GATES LEGAL PUBLISHING CO., CLEVELAND, OHIO

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MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE.

Now come Warren Telephone Company and The Peerless Electric Company, Ohio corporations, by their counsel, and respectfully move the Court for leave to file a brief as amici curiae herein, and for cause say:

1. Notwithstanding the deficit in capital account of Warren Telephone Company, respondent has assessed a tax against Warren Telephone Company under Section 14 of the Revenue Act of 1936, and has refused to give Warren Telephone Company a credit as provided for in Section 26(c)(1) of the Revenue Act of 1936 and the validity of such assessment is now pending before the Board of Tax Appeals, Docket No. 98,115.

2. The respondent has proposed a similar assessment of tax against The Peerless Electric Company for its fiscal year ending November 30, 1937, which proposed assessment has been protested and is now pending on such protest in the office of the Internal Revenue Agent in Charge at Cleveland, Ohio.

3. Petitioner, Crane-Johnson Company, by its counsel, John E. Hughes, has consented that Warren Telephone Company and The Peerless Electric Company, by their counsel, may file a brief herein as amici curiae, as is shown by the letter of John E. Hughes under date of December 14, 1939, hereto attached.

4. The Honorable Robert H. Jackson, Solicitor General of the United States, counsel for the respondent, has consented that Warren Telephone Company and The Peerless Electric Company, by their counsel, may file a brief herein as amici curiae, provided a copy of such brief is in his hands by December 27, 1939, as is evidenced by his letter of December 19, 1939, and the exchange of telegrams under date of December 21, 1939, hereto attached.

5. A typewritten copy of this motion and the brief as amici curiae were mailed to the Honorable Robert H. Jackson, Solicitor General of the United States, on December 23, 1939, followed by printed copies thereof mailed December 26, 1939.

Respectfully submitted,

H. H. HOPPE,
Second National Building,
Warren, Ohio,
Attorney for Amici Curiae.

HOPPE, LEA, DAY & FORD,
Second National Building,
Warren, Ohio,
Of Counsel.

Evening Star Bld'g.
Washington, D. C.

Telephone
Chicago Office
Randolph 3853

Law Offices
JOHN E. HUGHES
First National Bank Building
Chicago

December 14, 1939

Henry H. Hoppe, Esq.,
Second National Building,
Warren, Ohio

In re: Crane-Johnson Company vs. Commissioner,
No. 584 Supreme Court

Dear Mr. Hoppe:

I hereby consent that you may file a brief Amicus Curiae in the above-entitled case.

Faithfully yours,

JEH:FH

JOHN E. HUGHES.

(Department of Justice Seal)

OFFICE OF THE SOLICITOR GENERAL
Washington, D. C.

December 19, 1939.

Mr. H. H. Hoppe,
Hoppe, Lea, Day & Ford,
Second National Building,
Warren, Ohio.

Re: No. 584. Crane-Johnson Co. v. Commissioner of Internal Revenue

Dear Sir:

In reply to your letter of December 16, we have no objection to the filing of an *amicus curiae* brief provided you have a draft of the brief here by December 22. Our

brief in opposition to the petition is due for filing January 2, and we would like to have a draft of your brief here before the Government's brief is printed.

Yours very truly,

ROBERT H. JACKSON,
Solicitor General.

WESTERN UNION

Telegram X

December 21, 1939.

To Robert H. Jackson, Solicitor General
Street and No. .....
Place Washington, D. C.

RE CRANE-JOHNSON CASE YOUR LETTER NINETEENTH JUST RECEIVED IMPOSSIBLE TO FILE BRIEF BY TOMORROW COULD GET BRIEF TO YOU BY TWENTY-SEVENTH PLEASE WIRE

H. H. HOPPE

WESTERN UNION

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H H HOPPE—
SECOND NATIONAL BLDG

RE CRANE JOHNSON CASE. SATISFACTORY IF BRIEF RECEIVED BY 27TH—

ROBERT H JACKSON SOLICITOR GENERAL.

27.